

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MARLENE JOHANSEN

Plaintiff and Counterclaim
Defendant

Civil Action No. 04-11789-RCL

v.

UNITED STATES OF AMERICA

Defendant and Counterclaim
Plaintiff

v.

TIMOTHY BURKE

Counterclaim Defendant

TIMOTHY BURKE'S STATEMENT OF UNDISPUTED FACTS

The Counterclaim Defendant, Timothy Burke ("Burke"), makes the following Statement of Material Facts Not in Dispute Pursuant to Rule 56.1 of the Rules of the Court:

Facts 1 through 30.

Mr. Burke adopts his client's Statement of Undisputed Facts by reference hereto.

31. Burke reviewed the nominee lien filed by the United States against Ms. Johansen prior to entering into an agreement with her. (Affidavit of Timothy Burke ("Burke Affidavit") No. 1.)

32. The nominee lien was in error as it was unsupported by any facts. (Burke Affidavit No. 2.)

33. Burke relied on the legal infirmities of the nominee lien in entering into an agreement and mortgage with Ms. Johansen. (Burke Affidavit No. 3.)

34. On or about August 18, 2004 a mortgage was filed with the Middlesex County Registry of Deeds wherein Burke was the mortgagee and Ms. Johansen was the mortgagor. ("Burke Affidavit No. 4.)

Timothy Burke,
by his Attorney

/s/ Melissa Halbig
Melissa Halbig
BBO#655826
400 Washington Street
Braintree, MA 02184
(781) 380-0770

Dated: August 1, 2005

Certificate of Service

I hereby certify that a true copy of the above document was served upon each attorney of record via first class mail, postage prepaid on August 1, 2005 to the following counsel of record:

Stephen Turanchik
Trial Attorney, Tax Division
Department of Justice
P.O. Box 55
Ben Franklin Station
Washington, D.C. 20044

Dated: August 1, 2005

/s/ Melissa Halbig
Melissa Halbig

